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COMMITTEE AGAINST TORTURE

Eighth session

SUMMARY RECORD OF THE 112th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 1 May 1992, at 3 p.m.

Chairman: Mr. VOYAME

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7)

Initial report of Romania (continued) (CAT/C/16/Add.1)

1. The CHAIRMAN invited the Romanian delegation to respond to the questions raised by the Committee.

2. Mr. ZAHARIA (Romania) thanked the Committee for the questions, which his delegation would do its best to answer, although the statistics requested were in some cases not yet available.

3. In reply to a question concerning the applicability of article 5, paragraph 2, of the Convention, he said that Romanian domestic law contained provisions governing the competence of the State. Articles 3-9 of the Penal Code consisted of texts virtually identical to those of most European countries' penal laws. Article 6 of the Code allowed the application of article 5, paragraph 2, of the Convention. Under article 4 of the Romanian Extradition Act, the extradition of Romanian citizens, or of non-Romanians domiciled in Romania or having the right of exile, was not permitted; thus, pursuant to the rule aut dedere aut judicare, Romanian courts were competent to deal with the offences concerned. Paragraph 32 of the initial report (CAT/C/16/Add.1) related to the provisions of article 7 of the Penal Code, which would allow such international provisions to be implemented.

4. With regard to paragraph 40 of the report, article 8 of the Convention was directly applicable. The relevant bilateral extradition agreements in existence prior to Romania's accession to the Convention normally provided for extradition to be granted in cases involving a penalty of at least one or two years' imprisonment. Torture was, of course, covered by those provisions.

5. With regard to the questions raised concerning article 14, the general intention of Romanian penal law was to involve third-party liability in order that a victim might institute civil proceedings. With regard to such liability, jurisprudence generally held that, if the State was involved through an agent, the victim could sue the State as well as the directly guilty party for damages. A victim could even lodge complaints with the Attorney-General of the Republic. Cases of torture would again be covered by such provisions. If, however, the alleged guilty party had been acquitted in criminal proceedings, the matter might be deemed res judicata. In general, however, civil proceedings were applicable against the State and the person found guilty, under the provisions of article 22 of the Code of Penal Procedure.

6. Article 15 of the Convention was, in Romania's view, directly applicable. Article 68 of the Romanian Code of Penal Procedure rendered null and void any evidence obtained by the means referred to in paragraph 52 of the report. The reason why torture was not expressly mentioned in the relevant provisions was that, at the time they had been drafted, the offence as such had not been recognized in the Penal Code.

7. A question had been asked about the hierarchy of the courts. The relevant Romanian law was 24 years old, and a new bill on the organization of the judiciary was being drafted. The main problem was the amount of new legislation to be dealt with. In the past 2 years 150 bills had received attention. Priority had been given to electoral laws and to laws enabling Romania to adapt to a market economy; the law on the organization of the judiciary, therefore, was still pending. Under the judicial system, there were courts of first instance, the district courts; above them came the departmental courts; and lastly there was the Supreme Court, which was competent to rule even on the powers of the President of the Republic. An additional instance, inherited from the former dictatorship, still allowed the President of the Republic extraordinary recourse against decisions, but that was soon to be abolished. A number of special courts, such as the maritime court, existed, and there were still military courts of first and second instance to deal with offences against the State and the property of the armed forces. The legislation being drafted would restrict the competence of military courts to offences by military personnel and against property of the armed forces.

8. Members of the judiciary were currently appointed by the Minister of Justice. Pursuant to the new bill on the organization of the judiciary, appointments would be made by the President of the Republic, on the advice of the Supreme Council of the Magistrature. Articles 123-129 of the Constitution provided that judges were independent and irremovable. Disciplinary matters were currently dealt with by a court of senior judges; in future, that task would be a matter for the Supreme Council. During the current year, the Council had established a college to provide courses for new members of the judiciary as well as refresher courses. He himself would be one of the teaching staff, who would include members of law faculties. The courses would cover human rights subjects.

9. With regard to a right of appeal against expulsion, the Constitution provided that any person had the right of recourse to the law to defend his legitimate rights and interests; there were no express provisions, however, on the subject of expulsion.

10. On the question of how international law entered into domestic law in the absence of a formal convention, articles 513, 514 and 522 recognized conditions for the applicability of international rulings on certain criminal matters. In the absence of conventions, bilateral arrangements could be established on a basis of reciprocity.

11. On the question of prison establishments, he acknowledged the valuable help given by the Chairman, based on his experience as a special rapporteur on the situation in Romania, which was still a poor country and faced great difficulty in funding improvements in many spheres, including prisons. The relevant law, too, was old, although in a number of respects it did conform to the provisions of relevant international instruments, such as those concerning the separation of men and women and the treatment of minors.

12. In 1991, the administration of prisons had been transferred from the Ministry of the Interior to the Ministry of Justice. Although much remained to be done, the greatest possible efforts were being made to improve

conditions in many respects, such as visiting, work and feeding. Time and funds were needed most. Some 42,000 detainees were having to be held in premises whose total capacity was 30,000.

13. A new law currently being drafted on sentencing would conform to international provisions; a copy of the text would be presented to the Committee. The latter would also be provided with details of the law currently being drafted on the organization of the police. The Securitate had been abolished. The sole body concerned with State security would be the Information Service, whose activities covered matters which might involve jeopardy to the State. All its activities must be reported to Parliament.

14. On the question of amnesty, a Decree-Law promulgated after the revolution of December 1989 covered, inter alia, persons convicted, during the previous regime, of genuinely political offences. During that regime, of course, many such offences had been disguised, by those in authority, under charges such as hooliganism, while activities to promote democracy and human rights had been dubbed political offences.

15. Mr. CIOCLEI (Romania), replying to the question regarding the police officers who had been dismissed, said that the measures taken against them had been of an administrative nature. Those concerned had generally been members of the former political police, known for their professional incompetence or abuse of authority. Some, however, had been tried and sentenced for specific offences.

16. Regarding the requirement for a suspect not to leave the area, the measure was a purely preventive one, intended to ensure the suspect's presence during investigations, and was applicable for a maximum period of 30 days. No house arrest or surveillance was involved, the suspect merely being required to report to the investigating official to answer questions. The specific circumstances in which the measure was applicable were spelt out in special regulations.

17. Regarding the procedure for submitting complaints, it was the military court that was competent to deal with complaints against police and other officers. There was thus no real comparison between the procedure for dealing with complaints against the police and that for dealing with other complaints to the civilian authorities. Such complaints must of course be dealt with in due form, like those addressed to the civil courts, though problems might arise with regard to the rectitude of individual officers dealing with the complaints.

18. Paragraph 48 of the Romanian report dealt with the problem of protection only with regard to detainees. It was true that no special regulations existed to protect complainants or witnesses. However, the special provisions of the Code of Penal Procedure regarding threats, ill-treatment and torture were applicable in such cases. Furthermore, new legislation was envisaged in that area.

19. Many links existed between governmental organs and non-governmental organizations (NGOs). No specific mechanism to facilitate such links was necessary, since it was important that NGOs should preserve their

independence. The Ministries of Foreign Affairs and Justice and the Procurator's Office had made an effort to collaborate with the NGOs, and many NGOs submitted reports containing allegations of abuses. The ministries involved monitored the cases, tried to resolve them and replied to the NGOs. There was also some collaboration with foreign NGOs that had reported on Romania, such as Amnesty International. All such reports were followed up, and efforts were made to resolve the cases in favour of the victims.

20. No statistics were available regarding torture as an offence defined under the new Penal Code. Some cases had arisen, but were still pending. Cases pre-dating the introduction of the new Penal Code had not been addressed in the legislation relating to torture.

21. Unfortunately, he had little to report with regard to the problems in connection with article 10, the full extent of which had become apparent to him only at the current session. It was clear that much work needed to be done in that regard, and that Romania must strive to overcome its shortcomings in the application of that article.

22. In response to Mr. Khitrin's question regarding the Inter-Ministerial Committee, he said that the committee to which his colleague Mr. Zaharia had referred was a committee for the defence of human rights, not a committee to combat crime. All ministries had their own special human rights services. The task now was to ensure better collaboration between those services, under the coordination of the Minister of Justice.

23. Mr. LUNGEANU (Romania), referring to the Chairman's question regarding the application of article 6, paragraph 3, as set forth in paragraph 37 of the Romanian report, conceded that the connection between application of that article and article 136 (4) of the Code of Penal Procedure was tenuous. It was a case of a specific application of general rules. The final subparagraph of article 136 had in any case recently been superseded by Act No. 32 of 1990.

24. Regarding paragraph 45 and the supervision of criminal proceedings, article 216 of the Code of Penal Procedure laid down that the tasks of the prosecutor were to ensure that all offences were investigated, that all persons criminally liable were charged, and that no one was unfairly accused. In addition, the prosecutor ensured that no one was detained or arrested except as laid down by law, and that measures were taken by the police to give effect to those provisions in an expeditious manner. He could also act in a personal capacity, requiring the police to submit to him the complete file relating to a specific case. If he decided that the act or procedural measure in question was illegal, he could cancel it, giving reasons in writing, and could reject evidence brought by the police. Fuller details could be made available if so requested.

25. Regarding supervision of the prison regime by the prosecutor and the procedure for complaints (paras. 45 and 47 of the report), there were several types of prosecutor, each with his special field of supervisory expertise, such as criminal proceedings, prisons, minors, more serious offences and theoretical legal problems. There were also prosecutors dealing with military justice, and those supervising the regime for the execution of sentences or

pre-trial detention. Inspection of prisons or police premises used for pre-trial detention usually took place monthly. In addition, supervision was carried out by the prison authorities and by judges, so that there was a form of institutional parallelism, with meetings between the various authorities and work performed on a joint basis. In any event, the tasks of the various authorities were quite distinct.

26. The prison administration was required to inform the prosecutor immediately in the event of a detainee lodging a complaint. The prosecutor was also a member of a commission set up for the specific purpose of considering the cases of detainees eligible for early release.

27. With regard to article 11 of the Convention, the Code of Penal Procedure set forth rules for the administration of evidence during criminal proceedings, but contained no detailed rules regarding interrogation tactics. Such rules formed part of the teaching of techniques of criminal investigation given to law students and police cadets. Any confession made could subsequently be retracted or invalidated by other evidence, and was not regarded as irrefutable evidence. Confessions obtained under duress were null and void.

28. Solitary confinement was a harsh punishment that did not exist in Romania. The severest form of imprisonment was "rigorous isolation", which involved segregating the detainee from other prisoners. A bill currently being drafted would shortly amend the provisions governing the serving of prison sentences.

29. A question had been asked about the role of the police in criminal proceedings in cases of torture. While three quarters of offences under Romanian criminal law were dealt with by the police, under the supervision of the prosecutor, the prosecutor himself was entrusted with investigation of the most serious offences, including torture. The police never conducted criminal proceedings in cases of torture.

30. Some 15 cases of official misconduct were currently under investigation. They included a case from the Oradea region, in which a police officer allegedly responsible for the ill-treatment of a detainee had been fined for a purely administrative offence. Criminal charges had not been brought, but the Director of Military Prosecutions had requested access to the file on the case, and the probable outcome would be a prosecution under criminal law, although there was every indication that the conduct of the officer concerned had been irreproachable. The fact that such proceedings could be instituted was testimony to the determination of the authorities to establish the rule of law, despite the difficulties inherent in a nascent democracy.

31. Mr. EL-IBRASHI said that he would welcome further information on the jurisdiction of military tribunals in Romania. He asked whether their competence was confined to offences against the State.

32. Mr. LUNGEANU (Romania), replying to an earlier question, said that it was the function of the Procurator's Office to examine and, if necessary, review the legality of decisions taken by the courts.

33. Mr. EL-IBRASHI asked whether a genuine separation of powers between the executive and the judiciary had yet been achieved in Romania. He would welcome clarification regarding the relations between the Procurator's Office and the authority responsible for the administration of prisons.

34. Mr. ZAHARIA (Romania) said that, as a result of recent enactments, it would in future be possible for the Minister of Justice to dismiss judges, magistrates and public prosecutors on grounds of incompetence or misconduct. With regard to public prosecutors, only administrative measures would be taken, but the Ministry had carefully reviewed the activities of judges during the period of the dictatorship, and in the course of a thoroughgoing process of reform a number of judges and magistrates responsible for miscarriages of justice had been dismissed.

35. Mr. CIOCLEI (Romania) said that more than 75 per cent of the previously incumbent regional prosecutors and their deputies had been dismissed and a new system of competitive examinations had been instituted in order to ensure the recruitment of genuinely independent judges.

36. Mr. LUNGEANU (Romania) observed that an important role was also being played by the People's Advocates, who were responsible for ensuring that the rights of individual citizens were duly represented in the two Houses of Parliament.

37. Mr. DIPANDA MOUELLE (Alternate Country Rapporteur) asked whether there had been any protest from the bench regarding dismissals.

38. Mr. ZAHARIA (Romania) replied that he was not aware of any objections.

39. Mr. LUNGEANU (Romania) said that the authority of the Ministry of Justice was basically administrative: it was not entitled to issue instructions to prosecute in a given case. If, however, the prosecutor saw grounds for bringing a criminal charge, the Minister of Justice could authorize criminal proceedings.

40. The CHAIRMAN, speaking as Country Rapporteur, suggested that Romania might be requested to provide relevant texts regarding recent Romanian legislation so that members of the Committee might have a more comprehensive idea of the changing situation in that country.

41. The Committee had been impressed by the obvious determination of the Government of Romania to implement the Convention against Torture, as evidenced by the new institutions and legislation introduced. He thanked the authors of the report and the Romanian delegation for their frankness in admitting the after-effects of the former regime. The Committee believed that education about human rights was needed to combat those effects and to ensure that the changes made were irreversible. The Centre for Human Rights could be of assistance in suggesting educational methods. The Committee looked forward to receiving the Romanian Code of Penal Procedure, preferably in one of its working languages, the Penal Code, the law on the organization of prisons and the statistics that had been requested.

42. The Romanian delegation had provided a great deal of information on the organization of the police and legislation. It had given full and convincing replies to all the Committee's questions. He had been particularly gratified by the answer on article 14, which showed that the State was indeed responsible for the acts of its servants.

43. As to the after-effects of the former regime, which could still be felt in prison conditions and regulations and in the machinations of the police, he requested the Romanian authorities to give answers in its next periodic report to the points raised by members of the Committee, and to state in particular whether proceedings had been initiated against the police and punishment imposed. The Committee had no information on systematic torture in Romania during the period since the Convention against Torture had come into force, but there had been cases of ill-treatment and the Committee wished to know what measures had been taken to combat them.

44. He thanked the Romanian delegation for its constructive replies and hoped that the Committee's remarks would encourage Romania along the path of freedom, democracy and respect for human rights on which it had already made so much progress.

45. Mr. DIPANDA MOUELLE (Alternate Country Rapporteur) endorsed those remarks. He welcomed the new legislation and Constitution adopted by Romania and noted with satisfaction the establishment of the People's Advocate, the Institute for Human Rights and the League for the Defence of Human Rights. He was happy that responsibility for the administration of prisons had been transferred from the Ministry of the Interior to the Ministry of Justice, and was gratified by the abolition of the death penalty and of the Securitate and the fact that the prosecutor himself inquired into cases of torture.

46. He thanked the Romanian delegation for its very frank replies to the questions put by the members of the Committee and congratulated the Romanian authorities on their endeavours to build a truly modern and democratic State under the rule of law.

47. The CHAIRMAN said he assumed that the members of the Committee endorsed those conclusions.

48. It was so decided.

49. Mr. ZAHARIA (Romania) expressed his delegation's appreciation for the Committee's efforts in helping Romania to become a State governed by the rule of law. Romania pledged itself to follow the example of the Committee, whose role it was to reduce the suffering of mankind.

The meeting rose at 6.20 p.m.

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COMMITTEE AGAINST TORTURE

Eighth session

SUMMARY RECORD OF THE 113th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 May 1992, at 10 a.m.

Chairman: Mr. VOYAME

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Organizational and other matters (continued)

Preparatory activities relating to the World Conference on Human Rights

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The meeting was called to order at 10.05 a.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

1. The CHAIRMAN welcomed Mr. Gomez del Prado, Acting Chief of the Advisory Services, Technical Assistance and Information Branch of the Centre for Human Rights, who would describe the services to which the Committee against Torture frequently referred States.

2. Mr. GOMEZ DEL PRADO (Secretariat) said that the programmes for which his Branch was responsible dated back to about 1955, when they had been purely international in scope, covering, for example, the organization of regional seminars and the award of fellowships. During the 1980s, ideas had changed somewhat and the emphasis had shifted from the international to the regional and then to the national. International provisions in the field of human rights must be implemented in a national context, which was where the Centre considered that it was best able to provide countries with assistance.

3. Programmes had multiplied from then on, because in addition to its regular budget, which had been very small and scarcely allowed for much more than the financing of a few fellowships, a Voluntary Fund for Technical Cooperation in the field of Human Rights had been set up in 1987 to provide countries with more specific and more effective assistance. Within the framework of the Convention against Torture, countries faced several problems. Once they had ratified the Convention, they had to bring their national legislation into line with its provisions; in many cases, that had not yet been done. One Latin American country, for example, had a very complex legal system but had not yet brought its legislation into line. There was then the problem of unfamiliarity with the international provisions on the part of the judges who were supposed to apply them, and on the part of lawyers, the entire police force and doctors. That was particularly important in the case of a country changing from a dictatorship to a democracy.

4. As far as advisory services were concerned, countries were sent experts capable of organizing training courses for the various target groups such as judges, doctors, the police and prison staff. Those experts might also study police academy methods and manuals to see how the police operated and whether their procedures were consistent with international agreements. If a Government so wished, assistance could also be given in setting up a local infrastructure, in which case a human rights institute would be established to organize training courses, translate and discriminate the various international instruments and train the target groups. The Centre for Human Rights was in fact increasingly focusing its activities in that direction, which enabled it to provide countries with more pragmatic and more effective assistance.

5. Mr. EL-IBRASHI asked whether seminars or training courses had been organized in any of the Arab countries.

6. Mr. GOMEZ DEL PRADO (Secretariat) replied that the Arab countries were fortunate in having had the Arab Human Rights Institute set up in Tunis, following a seminar held in September 1987 at which Arab countries had been represented. It was a documentation and information centre which operated

with the moral and financial support of the United Nations. Institutions of that type were extremely important and should be increased in number, although care should be taken to ensure that they were not set up in areas where they would give rise to duplication. In Latin America, for instance, there was the Inter-American Institute of Human Rights in the context of the Organization of American States. Similarly, in Europe there was the Strasbourg Institute. There was another centre in Banjul which collaborated with the Arab Institute. Requests were expected to flood in from other Arab countries. Two seminars had recently been held for African countries, in collaboration with the International Institute of Humanitarian Law in San Remo, and had been attended by representatives of Arab countries. One had been for the French-speaking countries and the other for the English-speaking countries. A representative of the Committee had participated in each of the seminars and considerable attention had been focused on the Committee.

7. Mr. SORENSEN expressed his satisfaction at the work carried out within the framework of advisory services and his readiness to assist in that work. In that connection, he wished to know the exact relationship between the Centre for Human Rights and the Department of Public Information in New York, and whether there was any duplication between the two bodies.

8. Mr. GOMEZ DEL PRADO (Secretariat) said that the Department of Public Information in New York was responsible for everything relating to information. It had a sizeable budget, while his own Branch had a very limited budget. Within the confines of its budget, his Branch did its utmost to distribute texts and dealt with such questions as human rights violations, disappeared persons and racial discrimination. Through all its 67 centres worldwide, the Department of Public Information distributed the basic documents of all the committees working in the field of human rights. It was extremely important that the non-governmental organizations (NGOs) and the public at large should be familiar with the content of the reports produced by their Governments. The Department of Public Information also provided the Centre for Human Rights with information on particular cases and, where necessary, petitions. Another important task was to translate and disseminate international instruments. The Centre for Human Rights had started with the Universal Declaration of Human Rights, which had been translated into a number of local languages, but it had been unable to do more than that for lack of resources. The Department of Public Information had produced a number of films and written material of its own. In short, there was close cooperation between the Department of Public Information, which had a very wide network as well as all the basic documents, and the Centre for Human Rights.

9. Mr. KHITRIN asked whether, since the break-up of the Soviet Union and the birth of sovereign States which were now almost all Members of the United Nations, the Centre for Human Rights had envisaged an information campaign for those countries, within the framework of its advisory services.

10. Mr. GOMEZ DEL PRADE (Secretariat) said that two seminars had been held in Moscow and in Ukraine in 1991, during the time when the Soviet Union had still existed. Since then, experts had gone to the Baltic countries, in collaboration with the Office of the High Commissioner for Refugees, to

organize courses focusing on human rights. Talks were currently under way with the Russian Federation, Ukraine and other States, but no precise programme had yet been established. Some time previously, thought had been given to establishing a human rights documentation and information centre in Ukraine, but the project had not yet come to fruition. In eastern Europe, there was a small assistance programme in Bulgaria which helped distribute the texts of the international instruments. There was a similar type of programme in Hungary and in the Czech and Slovak Federal Republic. Kyrgyzstan, also a member of the former Soviet Union, had requested a similar programme.

11. Generally speaking there were more requests than his Branch could handle. With publications, too, the Centre was unable to supply all the texts requested, and it was impossible, while resources remained unchanged, to meet the continually increasing demand for assistance.

12. The CHAIRMAN pointed out that the human rights budget represented 1 per cent of the total budget of the United Nations.

13. Mr. BEN AMMAR said that, as a user of the technical assistance advisory services of the Centre for Human Rights, he wished to give some details of the Arab Human Rights Institute, of which he was one of the presiding officers. One of the Institute's tasks was to publicize human rights and to that end it operated in four main areas, for which it received assistance from the Centre for Human Rights. The main part of the Institute was a documentation and information centre, for which the Centre for Human Rights provided the equipment, four clerks and four data banks. The Institute's second task was research and studies on the status of legislation and institutions. A third task was consciousness-raising and training for NGOs, as well as for members of the judiciary, and police and prison service officers. With regard to the NGO training sessions, for which the programme had been developed in conjunction with the advisory services, the following subjects were covered: international instruments and mechanisms for protecting human rights; the role of the United Nations specialized agencies; the role of the NGOs; humanitarian law and the role of the International Committee of the Red Cross; regional systems for protecting human rights; and lastly, practical sessions on ways of publicizing and defending human rights. There were specialized conferences in addition to the programme. The Institute's fourth function was to publish and produce teaching material, with special emphasis on the defence of human rights and the rights of children.

14. The Institute had been in existence for three years and had already been in great demand. A Canadian group, the International Centre for the Human Person and Democratic Development, had nominated the Institute for the international freedom award. All that was due to the assistance of the Centre for Human Rights, to which he paid tribute. He would distribute documentation on the Institute to any interested members of the Committee.

15. The CHAIRMAN welcomed the useful work done by the Arab Institute for Human Rights and thanked the Centre for Human Rights for the assistance which it had provided.

16. Mr. GOMEZ DEL PRADO (Secretariat) considered that those were the lines along which action must be taken. That type of institution should be set up at the subregional and regional levels, as the Centre for Human Rights could not assist everybody; its financial, and also its human, resources were just not sufficient. Networks should be created and reliance placed on those centres, supported by small national institutes. Such centres were particularly important for it was sometimes very difficult to get the defence of human rights message across to lawyers, judges, doctors and also the police; the centres helped to fill the acknowledged gaps in that field.

17. Mr. EL-IBRASHI said that he would like details of projects of interest to the African countries. He was aware that there was at present an agency for the Arab countries, but would like to know what was envisaged for the future; particularly for the African countries, bearing in mind that some were English-speaking and others French-speaking.

18. Mr. GOMEZ DEL PRADO (Secretariat) said that a great step forward had been taken with the adoption of the African Charter of Human and Peoples' Rights and the establishment of the Commission on Human and Peoples' Rights; nevertheless, Africa still lacked regional institutions for the promotion of human rights, especially since the above-mentioned Commission lacked means and currently had only one secretary. It had requested the assistance of the Centre for Human Rights, which was currently furnishing support for, among other things, the publication of the periodic reports of States. The Commission, whose mandate was to promote human rights in Africa by, for example, organizing seminars, also hoped in the future to establish in Banjul a centre similar to the Arab Institute for Human Rights in Tunis.

19. There was currently in Banjul an African Centre for Human Rights and Studies financed by the Government of Gambia, but its mandate was regional. The Centre for Human Rights had provided assistance in the establishment of that Centre, which like the Tunis Institute, organized training courses. The courses were given in English and French, while those of the Institute were primarily in Arabic and French. The two institutions were therefore complementary; they exchanged information and ensured that their activities did not overlap.

20. It must be emphasized that the Centre for Human Rights received an enormous number of requests for assistance from African countries, to which it did its best to respond; in particular, it would in the very near future organize a seminar in Swaziland and an important project for Namibia was under preparation. In 1991, it had organized a seminar which had brought together representatives of all social elements in South Africa, with the aim of studying the drafting of the future constitution of that country in the human rights context. In that connection, it should be noted that the Centre for Human Rights was providing increasing assistance to recently emergent countries in drafting new constitutions consistent with human rights standards. It was also asked to provide support in connection with electoral processes, so that they might conform to principles as basic as freedom of association, for example.

21. Mr. BEN AMMAR said he wished to provide details on collaboration between the two centres for the propagation of human rights in Africa, the African Centre in Banjul and the Arab Institute in Tunis. The latter enjoyed observer status with the OAU Commission on Human and Peoples' Rights and participated in the meetings of international and African non-governmental human rights organizations convened whenever the Commission met. The documentation and information centre of the Arab Institute for Human Rights collected and disseminated not only data concerning the Arab countries, but also data of interest to the African countries in general. Under its auspices, a first Arab-African conference on the Convention on the Rights of the Child had been organized and a second conference, on criminal justice and prison reform, had been convened with 114 participants. The Institute published twice monthly a press review on human rights in the Arab world based on the English, French and Arabic press and, once monthly, a press review on human rights in Africa based on the English and French press.

22. Mr. GOMEZ DEL PRADO (Secretariat) said that a further support activity consisted of assistance in preparing countries' periodic reports to the bodies responsible for monitoring the implementation of human rights instruments. It should be emphasized that when a country had difficulties in preparing a periodic report, that might indicate problems at the structural level. The drafting of reports might provide an opportunity to identify those problems and to prepare a broader assistance programme which would make it possible to attack the roots of the difficulties encountered.

23. The CHAIRMAN thanked the Acting Chief of the Advisory Services, Technical Assistance and Information Branch of the Centre for Human Rights for the valuable information he had given the Committee.

PREPARATORY ACTIVITIES RELATING TO THE WORLD CONFERENCE ON HUMAN RIGHTS (agenda item 11)

24. The CHAIRMAN reminded members that Mr. Sorensen had represented the Committee at the second session of the Preparatory Committee for the World Conference and invited him to report on developments.

25. Mr. SORENSEN said that, in connection with the World Conference on Human Rights which the General Assembly had decided to convene in 1993, the Preparatory Committee for the Conference had held its second session from 30 March to 10 April 1992. During that session, the Preparatory Committee had been able to adopt most of the provisional rules of procedure of the Conference, to revise its recommendations concerning financial support to participants from least developed countries, and to decide that greater publicity should be given to the regional meetings organized in preparation for the Conference. On the other hand, the Preparatory Committee had not been able to agree either on the agenda or on the documentation of the Conference; it had decided to revert to those questions at its next session, to be held in September 1992.

26. Only two of the provisional rules of procedure had not been adopted, concerning the number of Vice-Presidents and the number of NGOs to be invited to the Conference. The latter question had been discussed in depth; all

participants had been of the view that the Conference should not only comprise representatives of States, but that non-governmental entities should make a substantial contribution. The only point of disagreement had concerned the criteria and modalities of their participation. On the other hand, the Preparatory Committee had reached agreement on the provisional rules concerning the participation of observers (specialized agencies, national liberation movements, intergovernmental organizations and United Nations bodies concerned with human rights). The Committee against Torture would thus have observer status at the Conference and would be able to participate in all its work, but without the right to vote; the Committee would have to find the resources to finance its participation. Lastly, the Preparatory Committee had requested the United Nations Department of Public Information to disseminate information relating to the regional meetings; the venue of the Conference had not yet been chosen.

27. The human rights bodies represented at the session had been the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination and the Committee against Torture; their representatives had made statements which had attracted considerable attention, as they had dealt with substantive issues and not procedural points. During the session, he had offered the assistance of the Committee against Torture in the preparation of documentation and had provided the Department of Public Information with various documents and data, following which the Department had expressed its intention to prepare a publication on torture before the Conference took place.

28. During his address to the Preparatory Committee, he had said that the Under-Secretary-General for Human Rights had, in his statement, stressed the linkage between democracy and human rights and had pointed out that torture represented a threat to democracy. Referring to similar statements by the Chairman of the Preparatory Committee and the representative of the United States of America, he (Mr. Sorensen) had analysed the reasons why torture represented a serious threat to democracy. He had said that, when the Conference evaluated the progress which had been achieved in the field of human rights and the remaining obstacles in that field, the Committee against Torture should describe its past activities and urge all Governments to ratify the Convention, without any reservation concerning articles 20, 21 and 22, and implement it fully both in their legislation and in practice. In that connection, the Committee against Torture would be able to report its own experience and indicate pitfalls to be avoided.

29. He had offered the Committee's assistance in examining the relationship between democracy, development and human rights, an issue that should probably be at the heart of the discussions at the Conference. In connection with article 10 of the Convention, he had stressed the prime importance of awareness of human rights problems and torture in particular, and had offered to place at the Conference's disposal the experience and resources of the Committee against Torture in the areas of education and cooperation.

30. In connection with the new guidelines to be given to United Nations human rights bodies, he had taken up the idea, put forward by Ms. Chanet as representative of the Committee against Torture at the previous session, of creating a human rights institute in Geneva which could act as a kind of

United Nations "fire brigade", able to take action without reference to the Security Council in cases of serious violations of human rights. The institute might also be responsible for harmonizing the system of reporting to the various human rights bodies, a step which would increase the value of the reports and make them easier to draft. He had also said that the Committee could place at the disposal of the Conference an audio-visual presentation on torture.

31. Since much of the Preparatory Committee's work had been done in private meetings reserved for State representatives, the other participants had used the time to make useful contacts and exchange views.

32. Mr. EL-IBRASHI said he would like to be reminded of the agenda items of the World Conference on which the Preparatory Committee had not found it possible to agree. The participation of NGOs in the Conference was clearly essential, and while he understood that the criteria for NGO participation might give rise to discussion, the procedures for their participation should pose no problem since it went without saying that they would take part in the Conference as observers. He strongly supported Mr. Sorensen's remarks on the relationship between torture and democracy; torture was not only a threat to, but a violation of, democracy.

33. Mr. SORENSEN explained, in connection with the agenda of the World Conference, that opposition to the draft submitted by the Latin American group had come mainly from the group of Asian countries, which had proposed a totally different agenda on which military occupation and the right to development were essential items. As far as NGO participation was concerned, two countries - China and India - had spoken of a danger of the World Conference being "overrun" by the NGOs; India had in fact referred to a "governmental conference" rather than a "world conference".

34. Mr. EL-IBRASHI asked whether the rules of procedure of the Conference would be adopted by consensus or by a vote.

35. Mr. SORENSEN replied that it had been proposed that the Conference should seek a consensus, failing which it would have to adopt its agenda by taking a vote.

36. Mr. MIKHAILOV congratulated Mr. Sorensen on his clear and exhaustive report on the work of the Preparatory Committee at its second session. The World Conference would probably have to be postponed if it was to be properly organized. The secretariat might benefit from the experience acquired at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana, 1990), at which each treaty body had been represented by two members as experts.

37. Mr. BEN AMMAR observed that the Chairman of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture had expressed the hope that States would use the World Conference as an opportunity to make pledges to the Fund. The Committee might persuade the States parties to the Convention to consider that matter at the regional conferences, in order that

they might have concrete proposals to make at the World Conference. It might also be desirable for the Committee to think about proposing to the United Nations General Assembly that a day of action against torture should be held every year.

38. Mr. BURNS said that he did not fully understand what the aims of the World Conference were. In the absence of an agenda, it was impossible to see exactly what they would be. Would the aim of the Conference be political action or a review of the situation? Apparently the participating States did not really know either. It seemed, however, that the Conference would seek to take political decisions and would adopt resolutions, which would not in fact fully satisfy either the NGOs or States.

39. The task of the Committee at the Conference must be to describe the phenomenon of torture and the various international, regional and national bodies established to combat it. The Conference should also provide the Committee with an opportunity to encourage States to sign the Convention and take part in the financing of the Voluntary Fund. He was pessimistic about the possibility of organizing the World Conference in 1993, because the venue had not yet been chosen and few cities in the world were equipped to receive so many people.

40. The meeting was suspended at 11.40 a.m. and resumed at noon.

41. Mr. LORENZO asked whether the dates and venues of the regional conferences in preparation for the World Conference had been settled.

42. Mr. BRUNI (Secretary of the Committee) said that the calendar of regional conferences was provisionally: for Latin America, San José from 6 to 10 July 1992; for Asia, Bangkok from 17 to 21 August 1992; for Africa, Tunis from 2 to 6 November 1992.

43. The CHAIRMAN, summarizing the proposals made during the discussion, said he assumed that the Committee agreed on the following: that the agenda of the World Conference should include not only political questions, but also questions of substance, including torture; that the NGOs should be duly represented, for without them the human rights treaty-monitoring bodies would be ill-informed and practically powerless; that each of those bodies should be able to send two representatives to the World Conference; and that States should be asked to make pledges to the Voluntary Fund for Victims of Torture at the regional conferences already.

44. As to instituting a day of action against torture, his own view was that such an initiative might snowball and entail the risk of days of action against summary execution, involuntary disappearances and so on. In fact, the more "days" there were, the smaller their impact.

45. Mr. BURNS said the Committee already knew that it would be represented at the Tunis conference by Mr. Ben Ammar; it still had to decide who would represent it in Costa Rica and Bangkok. It was important that its aims should be defended at all the regional conferences.

46. Mr. SORENSEN said that he was ready to submit the proposals just summarized by the Chairman to the Preparatory Committee at its third session. He agreed with Mr. Burns that it was very important for the Committee to be represented at the regional conferences, at which the interregional clashes so much in evidence in the Preparatory Committee would obviously be much less important.

47. Mr. LORENZO agreed with the Chairman that it was not advisable to propose the institution of a day of action against torture. It would be better to give more weight to the Human Rights Day, which was already in existence. He agreed to go to Costa Rica if his timetable permitted, but considered that Mr. Gil Lavedra, who had been a member of the Committee for much longer than himself, would be a more suitable candidate.

48. Mr. BEN AMMAR endorsed the Chairman's reservations about a day of action against torture.

49. Mr. SORENSEN proposed that Human Rights Day should concentrate on a particular issue each year and hence, in the near future, on efforts to combat torture. He requested the Chairman to speak to the other chairmen of the treaty-monitoring bodies about the matter at their next meeting.

50. The CHAIRMAN endorsed that interesting proposal which he suggested should be added to the list of the Committee's proposals to the Preparatory Committee. He requested Mrs. Klein-Bidmon, representative of the Secretary-General, to give the Committee the secretariat's opinion on the financing of the experts' participation in the work of the regional conferences.

51. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) said that, for the time being, there was no provision for members of treaty bodies to attend regional conferences as observers. The United Nations Voluntary Fund for Victims of Torture had likewise discussed the possibility of speaking at regional conferences. It had been decided that the Costa Rican member of the Fund would do everything possible to ensure that the question of torture and the financing of the Fund was not overlooked. All matters discussed at regional conferences would in any case be taken up again by the Preparatory Committee at Geneva.

52. With regard to funding, she observed that the expenses of treaty bodies were not covered by the World Conference budget. It was up to each committee to seek means of funding its members' travel costs from its own budget.

53. Mr. EL-IBRASHI considered that, since the Committee against Torture was relatively young, it needed to make an impact and create awareness of its work and objectives. It would be a good idea for Mr. Ben Ammar to represent the Committee officially at the African regional conference. The Committee should also be represented at the Latin American conference, and one of its members from that region should be so mandated if they so wished and if financial conditions permitted. The Committee should also be represented at the Asian regional conference, since it would be interesting to have the views of that region's States and the Committee had no member from Asia. Given his experience and geographical origin, Mr. Khitrin would seem the best qualified person to represent the Committee at the Asian conference.

54. The CHAIRMAN said he was not sure whether the Committee's budget would enable it to send representatives to the regional conferences for Asia and Latin America. It was only participation in the African conference that seemed to pose no problem.

55. Mr. LORENZO considered that Mr. Ben Ammar should have an official mandate to represent the Committee at the meeting in Tunis.

56. Mr. MIKHAILOV endorsed that view. He proposed that the Committee should nominate representatives to the three regional conferences, subject to financial feasibility.

57. The CHAIRMAN asked Mrs. Klein-Bidmon whether an indication of the Committee's financial situation at the end of the session could be provided quickly so as to see whether the budget would allow the funding of two journeys.

58. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) said that she would attend to the Chairman's request, but stressed that the current session was at the beginning of the Committee's biennial budget period and it would therefore be difficult to assess the financial situation.

59. Mr. BURNS pointed out that the person who represented the Committee at the conference for Asia would have to speak the language of the conference.

60. Mr. SORENSEN said that the point raised by Mr. Burns was a very pertinent one. He also thought that the person sent as the Committee's representative would have to be fully acceptable to the regional group. Since he was not sure whether Russian was an official language of the regional conference for Asia, and since he himself had acquired some experience in the Preparatory Committee for the World Conference, he volunteered to represent the Committee at the conference in Bangkok, if the financial situation so permitted.

61. Mr. MIKHAILOV said that, since Russian was an official language of the United Nations, its use was surely allowed at regional conferences.

62. The CHAIRMAN, summarizing, said that the Committee's questions had focused firstly on financial possibilities, secondly, on whether certain of its members would be admitted as observers to the regional conferences, and lastly on the languages used at those conferences.

63. Mr. BEN AMMAR said that he would be very honoured to represent the Committee at the regional conference for Africa. He was nevertheless afraid that the short interval between the end of the regional conference (on 6 November) and the start of the session of the Committee against Torture (on 9 November) would not give him enough time to prepare a written report.

64. The CHAIRMAN said that the Committee would be quite happy to receive an oral report.

65. Mrs. KLEIN-BIDMON (Representative of the Secretary-General) said, in reply to a question by Mr. DIPANDA MOUELLE, that no other committee had hitherto voiced a wish to be represented at regional conferences.

66. Mr. EL-IBRASHI considered that the regional groups, far from resenting the presence of a member of the Committee as an observer, would appreciate the interest shown in them.

67. The CHAIRMAN proposed that the secretariat should obtain information on the various points raised during the exchange in views; as soon as the information requested was available, the Committee would resume its discussion on the matter.

68. It was so decided.

ORAL REPORT ON THE ACTIVITIES OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE

69. The CHAIRMAN invited Mr. Sorensen to report briefly on the work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Knowledge of how the European Committee functioned would be particularly useful at a time when the draft optional protocol to the Convention against Torture was being discussed.

70. Mr. SORENSEN said that the European Committee for the Prevention of Torture had been established pursuant to the Council of Europe's European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which had entered into force on 1 February 1989; it had been ratified by 23 out of the 26 member States of the Council of Europe and would shortly be ratified by the three States (Poland, Bulgaria and Czechoslovakia) which had recently become members of the Council of Europe. The European Committee's membership was equal in number to the number of countries. Its members attended in a personal capacity and had to have substantial professional experience and be of high moral character; they must be independent, impartial and accessible. The European Committee was currently composed of four doctors, a priest, two experts on prisons, several experts on law and criminology, and three non-specialist politicians.

71. The mandate of the European Committee was exactly the same as that envisaged in the optional protocol; it was empowered to visit any person deprived of freedom by the authorities, whether in a police station, prison, barracks, refugee camp or hospital. Visits were of two types: periodic and ad hoc. Since the European Committee was still a young body, it had not yet completed its first cycle of periodic visits. Countries were chosen by lot. Each delegation consisted of four or five members of the Committee, all speaking the same language, two experts, interpreters, and two members of the secretariat, constituting a group of about 10 persons. When the choice of country was known, the national authorities were informed, two weeks before the start of the visit, that a delegation from the Committee would be visiting the country and, three days before the visit, they were told which places the Committee's delegation wished to visit and what information it would like to

receive. The delegation could nevertheless decide, on the spot, to visit places other than those it had indicated to the authorities of the country concerned. Before its departure, the delegation met NGOs with a view to obtaining any information that might be useful to it. On-the-spot visits lasted two weeks in the case of large countries, and 9 or 10 days in the case of medium-sized countries; a visit to San Marino had lasted only one day.

72. So far the delegations from the European Committee had always been able to see what they had wanted to see in the countries visited. On completion of a visit, the members of the delegation finalized their notes and sent them to the European Committee secretariat, which produced a draft report. Once they had commented on the draft report, a final report was prepared. The report thus produced, which if necessary included recommendations for improvements in the situation, was transmitted to the State concerned. Preparing the report took considerable time; the report on the visit to Italy, for example, had required 200 working days.

73. The activities of the European Committee were based on two principles: cooperation and confidentiality. When it received the Committee's report, the State presented its observations in turn. Four countries had decided to make the Committee's report public; they were Denmark, Austria, the United Kingdom and Sweden. The members of the Committee against Torture should study the reports of the European Committee which had been made public, as well as the European Committee's annual report. The reports were published in English and French, the original version being deemed authentic.

74. The CHAIRMAN announced that the optional protocol to the Convention against Torture would be discussed at the next meeting.

The meeting rose at 1 p.m.

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COMMITTEE AGAINST TORTURE

Eighth session

SUMMARY RECORD OF THE 114th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 May 1992, at 3 p.m.

Chairman: Mr. VOYAME

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The meeting was called to order at 3.05 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Exchange of views on the question of a draft optional protocol to the Convention (E/CN.4/1991/66; CAT/C/SR.80)

1. A video film showing the condition and testimony of three victims of torture was projected.

2. The CHAIRMAN invited the Committee to consider further the draft optional protocol contained in document E/CN.4/1991/66.

3. Mr. SORENSEN said that the scenes shown in the film just projected were real and constituted a stark reminder of the situations which bodies such as the Committee were designed to investigate and instruments such as the draft optional protocol to prevent.

4. Replying to a question by Mr. MIKHAILOV, he said that the rules of procedure of the European Committee established under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment had been published in English and French and would be made available to the Committee against Torture. The most recent account of the European Committee's activity was contained in its second annual report, published that week and also available in English and French; he recommended that the first report, too, should be studied.

5. Mr. BURNS said that the basic documentation made available to the Committee for the discussion of the draft optional protocol to the Convention consisted of the text contained in document E/CN.4/1991/66, and a document which reflected NGOs' recommendations in support of such a text, together with the summary record of the Committee's discussions on that question on 25 April 1991 (CAT/C/SR.80). He recalled that the Committee had agreed in principle that an optional protocol was desirable, but had expressed concern about how it should be implemented, bearing in mind not only the Committee's own work but also the various regional arrangements. A distinction should be noted between the type of jurisdiction proposed and the purely investigative type exercised by the Committee under article 20 of the Convention, which involved the prior consent of the State party concerned. The optional protocol would provide a much broader jurisdiction, similar to that exercised under the European model, including the establishment of a subcommittee of the Committee against Torture, empowered to investigate any type of institution, in a State party, in which persons were being held against their will. The proposed qualifications for membership of the subcommittee included a reference to an investigative background - something not mentioned in the Convention. Measures to avoid confusion in relation to action at the regional level or to the work of ICRC were set forth in article 9 of the draft.

6. He himself had difficulty with the text of articles 14 and 15, although he appreciated that the chief concern was to ensure confidentiality. Article 14 provided, in paragraph 1, that the subcommittee should draw up a report on the facts found during a mission, transmit the report, including any

recommendations considered necessary, to the State party and consult that State party; according to paragraph 2, if the State party failed to cooperate, the Committee against Torture might, under certain circumstances, make a public statement or publish the report of the subcommittee at the latter's request. Thus, only if the report had been submitted to the Committee against Torture would the latter take cognizance of it. He had difficulty with the implication that a subcommittee would not necessarily be reporting to the Committee in every case, and intended to propose an appropriate amendment to the text.

7. He had no difficulty with paragraphs 3 and 4 of that article, but he felt some concern about article 15, paragraph 1, which introduced a discretionary element. As a member of the Committee against Torture, he regarded the confidentiality of the article 20 procedure as paramount, of course. But he wondered whether a situation could arise in which the Committee, applying its article 20 procedure to a State party already under investigation by the subcommittee, would necessarily be able to obtain the latter's information. In the case of action by the Committee pursuant to article 19, it was right that any confidential information in the subcommittee's possession should remain so; but since the article 20 procedure was by definition confidential, he saw no reason why the Committee should not have access in all such cases to any relevant reports by the subcommittee.

8. He felt, however, that no one could be opposed in principle to the optional protocol. Despite any disagreement on detail, therefore, he thought it essential for the Committee to express an opinion to the Economic and Social Council, which in any case must take a decision on the matter whether the Committee voiced a view or not.

9. Mr. SORENSEN observed that the views in support of having two committees on torture had been set out, inter alia, in a paper circulated to members of the Committee.

10. On a minor point, he felt that article 7, paragraph 3, of the draft optional protocol should contain a reference to the subcommittee's working language on mission; in his view, there should be only one, since a multilingual delegation in the field might arouse confusion and mistrust. There was also very much to be said for working on a regional basis, so he felt that a system of regionality, too, should be reflected in article 7. In that connection, he thought that a mission consisting of nationals of neighbouring States would in general be received with more confidence, in the country concerned, than one containing nationals of distant States, possibility including former colonial Powers.

11. The question of confidentiality, on the other hand, was a major one. It was, of course, highly important that the Committee against Torture should be able to function in public, and the article 19 procedure enable it to do so; but it was equally important that a body such as the proposed subcommittee could work in camera. To combine the two requirements was not easy. He could support the text of article 15, which he had helped to prepare, but perhaps paragraph 1 of the article could be amended to provide that the subcommittee would submit to the Committee against Torture all reports published as well as

all unpublished reports in cases where the subcommittee wished a public statement to be made. In any case, the subcommittee would submit to the Committee annual reports containing details of all the countries visited.

12. On one occasion when the Committee had been considering a certain State party under the article 19 procedure, he had assured that State's representatives beforehand that, since he had been involved in confidential inquiries, he would not take the floor in any public discussion on the matter. In that way, a major difficulty had been avoided. But if a State party voiced similar concern in a case where the entire Committee membership had access to confidential information from the subcommittee, the Committee would be unable to discuss the matter in public, and both the Committee and the subcommittee would lose credibility.

13. Despite the problems raised, he too was wholeheartedly in favour of establishing an optional protocol.

14. Mr. EL-IBRASHI, referring to article 9, paragraph 1, of the draft optional protocol, asked what the role of an observer from the subcommittee on a regional mission would be. He also wondered whether States had entered reservations to the Convention as it stood would accede to the optional protocol, which went much further than the Convention itself.

15. Mr. BURNS, replying to Mr. El-Ibrashi's second question, said that it was always possible that a State that had entered reservations on article 20 of the Convention might be willing to accede to the optional protocol, although that would indeed be inconsistent. However, a State could always withdraw its reservations on article 20 at any time. A State acceding to the optional protocol would do so in full knowledge of the facts, including the relationship between the subcommittee and the Committee on confidential issues. It might be, however, that Mr. Sorensen's concerns would influence the Economic and Social Council and that a more limited scope would be given to the relations between the Committee and the subcommittee.

16. Mr. SORENSEN, replying to Mr. El-Ibrashi's first question, said that a visit to a country party to a regional convention would be made by the subcommittee only in very special circumstances. Only one such convention was in existence so far, namely, the European Convention for the Prevention of Torture. Without the provision in article 9, the need for European countries to accede to the optional protocol might be questioned. Hence the suggestion for an observer from the subcommittee to see how the regional convention was working and point out any shortcomings.

17. Mr. BEN AMMAR considered that an optional protocol would be beneficial since prevention was always better than cure. The optional protocol should be international rather than regional in scope, since the Committee had been informed that there were insufficient resources, in Africa for instance, to operate already existing structures. Moreover, a United Nations body would have more pestige than a regional body in certain regions, including Africa. Mr. Sorensen's cultural argument was not convincing: there were as many differences between African countries as between them and the countries of another continent.

18. Mr. SORENSEN explained that his idea had been regionalization within the United Nations. The proposed body would be a United Nations body.

19. Mr. EL-IBRASHI drew attention to article 8 of the draft optional protocol, which provided for regular missions by the subcommittee to States parties. Those missions would, however, be postponed if the State party concerned had agreed to a visit by the Committee against Torture pursuant to article 20, paragraph 3, of the Convention. For how long would such a mission be postponed?

20. Mr. SORENSEN said that since the subcommittee would always meet in camera, and since the Committee dealt with matters under article 20 in camera, it could always inform the subcommittee of them, thus obviating the need for both bodies to visit a State party. Moreover, visits by the Committee pursuant to article 20 covered torture, whereas the subcommittee's visit would be concerned with torture and other cruel, inhuman or degrading treatment or punishment.

21. Mr. BURNS thought that, in practice, whether or not the visit by the subcommittee was carried out would depend on the content of the Committee's report. If that report covered the matters with which the subcommittee was concerned, the country would not be visited; if the Committee's report was deficient in some way, then the subcommittee would have jurisdiction to make its visit. Practice in such matters would no doubt develop over time.

22. After further discussion between Mr. BURNS and Mr. SORENSEN, the CHAIRMAN suggested that, since the members of the Committee were in favour of the principle of the optional protocol but still needed to clarify their views, Mr. Burns and Mr. Sorensen should prepare a short paper, in English only, for discussion at the next meeting but one.

23. It was so decided.

The meeting rose at 5 p.m.